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DEPARTMENT OF JUSTICE

CIVIL DIVISION
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OPINION 19-0017

Ms. Patricia A. Adams
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501 Manhattan Blvd., Ste. 3001
Harvey, LA 70058

103 – SCHOOLS & SCHOOL DISTRICTS Pension Benefits,
Teachers' Retirement System

La. R.S. 11:701(33)(a)(i)

La. R.S. 11:701(33)(a)(i) provides that "teacher" for purposes of participation in Teachers' Retirement System of Louisiana includes, *inter alia*, any employee of a city, parish, or other local school board not otherwise excluded

Dear Ms. Adams:

On behalf of the Jefferson Parish Public School System ("JPPSS"), you have requested an opinion from our office regarding whether certain employees of JPPSS should properly be placed in the Teachers' Retirement System of Louisiana ("TRSL") or the Louisiana School Employees' Retirement System ("LSERS".)

You advise that four individuals are employed by JPPSS as project managers. Two of the employees at issue were hired in 2001 and were enrolled in TRSL. The other two employees were hired in 2007 and 2008, respectively, and were enrolled in LSERS.

You state that all four employees hold the same position with the same job description. You provided a job description indicating that a JPPSS project manager reports to the Executive Director of Facilities and Maintenance and performs various duties relating to capital improvement programs for schools and facilities.

You ask for an opinion from this office as to which retirement system is required for these employees.

La. R.S. 11:701, *et seq.*, governs TRSL. La. R.S. 11:721 makes participation in TRSL a condition of employment for all teachers. La. R.S. 11:701(33) defines who is a "teacher" for purposes of this law and includes, *inter alia*, "[a]ny employee of a city, parish, or other local school board, any parish, city, or other local superintendent, or any assistant superintendent of public schools."¹ La. R.S. 11:701(33)(b)(i) expressly excludes from the definition of "teacher" "[a]ny employee of a city, parish, or other local school board who is employed as a school bus driver, school janitor, school custodian, or school maintenance

¹ La. R.S. 11:701(33)(a)(i).

employee, school bus aide, monitor, or attendant, or anyone who actually works on a school bus helping with the transportation of school children."

LSERS is established in La. R.S. 11:1001, *et seq.* Participation in LSERS is mandatory for covered employees.² La. R.S. 11:1002(13) defines the employees to whom LSERS is applicable as:

[A]ny person legally occupying a position as a school bus driver who actually renders a service by driving a school bus during the full time of his employment, a school janitor, a school custodian, a school maintenance employee, school bus aide, monitor or attendant, or other regular school employee who actually works on a school bus helping with the transportation of school children, and who is a legal employee of a parish or city school board of the state of Louisiana, and shall include the employees of this system.

The employees subject to participation in LSERS are those excluded from TRSL in La. R.S. 11:701(33)(b).

We apply customary principles of statutory interpretation in analyzing your question.

The starting point in the interpretation of any statute is the language of the statute itself.³ Words and phrases are to be read in their context and to be accorded their generally prevailing meaning.⁴ Unequivocal provisions are not subject to judicial construction.⁵

The meaning and intent of a law is determined by considering the law in its entirety and all other laws on the same subject matter and placing a construction on the provision in question that is consistent with the express terms of the law and with the obvious intent of the Legislature in enacting it.⁶ It is likewise presumed that the intention of the legislative branch is to achieve a consistent body of law. Laws are presumed to be passed with deliberation and with full knowledge of all existing ones on the same subject.⁷ Where two statutes deal with the same subject matter, they must be harmonized and reconciled if possible. If it is not possible, however, the statute specifically directed to the matter at issue must prevail as an exception to the statute more general in character.⁸

² La.R.S. 11:1116.

³ *City of New Orleans v. Louisiana Assessors' Retirement and Relief Fund*, 05-2548 (La.10/1/07), 986 So.2d 1, 17.

⁴ La. C.C. art. 11; La. R.S. 1:3

⁵ *McGlothlin v. Christus St. Patrick Hospital*, 10-2775 (La. 7/1/2011), 65 So.3d1218, 1228-29 (internal citations omitted).

⁶ *Pumphrey v. City of New Orleans*, 05-C-979 (La. 4/4/2006) (internal citations omitted).

⁷ *Theriot v. Midland Risk Ins. Co.*, 95-C-2895 (La. 5.20/77), 694 So. 2d 184, citing *City of New Orleans v. Board of Sup'r's.*, 216 La. 116, 43 So. 2d 237 (1949).

⁸ *City of Pineville v. American Federation of State, County, and Municipal Employees*, 00-1983, p. 5 (La. 6/29/01), 701 So.2d 609, 613.

The language of the TRSL and LSERS statutes pertinent to your question are clear and unambiguous. LSERS applies to individuals employed as school bus drivers, aides, monitors or attendants, and school janitors, custodians, or maintenance workers. Based on the duties outlined in the JPPSS project manager job description, the JPPSS employees at issue do not meet the definition of "employee" in La. RS. 11:1002(B) and would not qualify for participation in LSERS. Rather, they are employees of a parish school board and therefore are "teachers" as defined in La. R.S. 11:701(33)(a)(i) and required to participate in TRSL.

We hope that this opinion has addressed the issues that you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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BY:
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JL:PHW